

## Message Text

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64

ACTION EB-11

INFO OCT-01 ARA-16 ISO-00 CAB-09 CIAE-00 COME-00 DODE-00

DOT-00 INR-10 NSAE-00 RSC-01 FAA-00 L-03 SS-20 NSC-07

SSO-00 NSCE-00 INRE-00 DRC-01 /079 W

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O 182241Z JUN 74

FM AMEMBASSY LIMA

TO SECSTATE WASHDC IMMEIDATE NIACT 0605

LIMITED OFFICIAL USE LIMA 4898

E.O. 11652: N/A

TAGS: ETRN, PE

SUBJECT: CIVAIR - BRANIFF/AEROPERU PROBLEM

REF: STATE 129152; LIMA 4864

1. CHARLES SOUTH OF BRANIFF ACCOMPANIED BY PFLUKER AND DEL SOLAR CALLED ON ME 3:00 P.M. JUNE 18. THEY EXPRESSED GRAVE CONCERN WITH RESPECT TO AEROPERU DISSATISFACTION DERIVING FROM ADMINISTRATIVE LAW JUDGE'S RECOMMENDATIONS ON AEROPERU OPERATING PERMIT AND SAID THEY BELIEVED THE AEROPERU COMPLAINTS WERE LEGITIMATE. THEY PERCEIVED CLEAR CONNECTION IN MINDS OF GOP OFFICIALS BETWEEN PROBLEMS BRANIFF IS FACING AND WHAT AEROPERU OBVIOUSLY BELIEVES TO HAVE BEEN INEQUITABLE RECOMMENDATIONS.

2. SOUTH SAID THAT HE AWARE OF NO REASON WHY LAW JUDGE SHOULD HAVE RECOMMENDED THAT ALL AEROPERU FLIGHT TO OR FROM U.S. SHOULD ORIGINATE OR TERMINATE IN LIMA. ALL THAT AEROPERU NEED DO IN ANY CASE, SHOULD IT WISH TO CARRY SUCH SIXTH FREEDOM TRAFFIC, WOULD BE TO CHANGE FLIGHT NUMBERS IN LIMA. SOUTH WAS FURTHER AT A LOSS TO UNDERSTAND WHY LAW JUDGE SHOULD HAVE CONCLUDED THAT ACCESS TO SUCH TRAFFIC "COULD WELL HAVE THE RESULT OF DENYING BRANIFF FAIR AND EQUAL OPPORTUNITY TO OPERATE ON THE LIMITED OFFICIAL USE

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ROUTES COVERED BY THE BILATERAL". SOUTH SAID HE BELIEVED

THE CAB SHOULD BE URGED TO ELIMINATE THIS NEEDLESS AND IRRITATING RESTRICTION.

3. SOUTH SAID HE SIMILARLY SAW NO NEED FOR LAW JUDGE'S RECOMMENDATION TO EFFECT THAT FARES CHARGED BY AEROPERU SHALL BE NO LOWER THAN FARES CHARGED BY U.S. CARRIERS SERVING SAME ROUTES. SOUTH SAID THAT "PART 213 OF THE ECONOMIC REGULATIONS OF THE FEDERAL AVIATION ACT OF 1958 CONFERRED ON THE CAB AMPLE RIGHT OF SANCTION" IN THE EVENT THAT ANY FOREIGN CARRIER INSTITUTED A FARE STRUCTURE DIFFERING FROM THAT FILED AND APPROVED BY THE CAB. HE BELIEVED NEITHER BRANIFF NOR THE U.S. WOULD DERIVE ANY GREATER PROTECTION FROM THE RECOMMENDATION OF THE LAW JUDGE THAN THAT WHICH THEY ALREADY POSSESSED. HE REGARDED THE RECOMMENDATION AS AN UNNECESSARY IRRITANT AND SAID HE HOPED THE CAB COULD BE PERSUADED TO REMOVE IT.

4. SOUTH SAID HE WOULD TELEPHONE CAB (HE SPECIFIED JUDGE WEST) AND HIS DALLAS OFFICE ON THE MATTER AND RECOMMEND AS STRONGLY AS HE COULD THAT CORRECTIVE ACTION BE TAKEN AS SOON AS POSSIBLE. HE URGED THAT THE DEPARTMENT AND THE EMBASSY LEND THEIR SUPPORT.

5. WE SHARE BRANIFF VIEW THAT ITS AND AEROPERU'S PROBLEMS HAVE BECOME LINKED IN MINDS OF GOP OFFICIALS AND BELIEVE WITH THEM THAT, AS INDICATED LIMA 4864, "ANY CHANCE TO NEGOTIATE AND RESOLVE BRANIFF PROBLEMS WILL DEPEND ON SOME COMMITMENT AS TO USG WILLINGNESS TO PROVIDE RELIEF TO AEROPERU." WE FURTHER BELIEVE THAT TIME IS OF ESSENCE IN VIEW JUNE 20 DEADLINE BY WHICH GOP INSISTS BRANIFF MUST REVERT TO 1973 SCHEDULE. I THEREFORE REQUEST DEPARTMENT TO CONFER WITH CAB ON URGENT BASIS TO OBTAIN CAB AGREEMENT TO WITHDRAW THE TWO RECOMMENDED CONDITIONS TO THE PERMIT TO WHICH AEROPERU OBJECTS. I FURTHER REQUEST THAT I BE AUTHORIZED TO INFORM GOP AT MINISTERIAL LEVEL, IF FEASIBLE BY NOONON JUNE 19, THAT USG IS WILLING TO MAKE THIS CHANGE. I BELIEVE THIS ACTION WILL AFFORD US BEST CHANCE OF AVOIDING NEEDLESS CONFRONTATION ON TWO ISSUES OF LITTLE OR NO PRACTICAL IMPORTANCE TO US OR TO THE COMPETITIVE POSITION OF U.S. CARRIERS.

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DEAN

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NNN

## Message Attributes

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**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** CIVIL AVIATION, AIR TRAFFIC, LAW, JUDGES, AIRLINES, AIR ROUTE APPLICATIONS, DIPLOMATIC PROTESTS, AVIATION AGREEMENTS, FOREIGN POLICY POSITION, AIR FARES  
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**Draft Date:** 18 JUN 1974  
**Decaption Date:** 01 JAN 1960  
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**Disposition Approved on Date:**  
**Disposition Authority:** WorrelSW  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
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**Review Date:** 19 SEP 2002  
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**TAGS:** ETRN, PE, US, BRANIFF, AEROPERU, (SOUTH, CHARLES)  
**To:** STATE  
**Type:** TE  
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